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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,532	11/24/2003	Jan Sudor	G-090US04DIV	4393
23557	7590	09/12/2007	EXAMINER	
SALIWANCHIK LLOYD & SALIWANCHIK A PROFESSIONAL ASSOCIATION PO BOX 142950 GAINESVILLE, FL 32614-2950			STOUFFER, KELLY M	
			ART UNIT	PAPER NUMBER
			1762	
			MAIL DATE	DELIVERY MODE
			09/12/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/720,532	SUDOR, JAN
	Examiner Kelly Stouffer	Art Unit 1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 July 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 and 7-24 is/are pending in the application.
  - 4a) Of the above claim(s) 13-24 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 and 7-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of the species of nucleic acid in the reply filed on 31 July 2007 is acknowledged. Claims 13-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 31 July 2007.

### ***Response to Arguments***

Applicant's arguments, filed 5 March 2007, with respect to the 35 USC 112 2<sup>nd</sup> paragraph rejections and the 35 USC 102(b) rejections of the claims under Thurow have been fully considered and are persuasive. The to the 35 USC 112 2<sup>nd</sup> paragraph rejections and the 35 USC 102(b) rejections of the claims under Thurow have been withdrawn.

Applicant's arguments filed 5 March 2007 with respect to the rejections under the Parce et al. reference have been fully considered but they are not persuasive. The applicant argues that the "operation control reagent" in Parce et al. is not the reaction mixture as required by the claims. However, though there may be other "reaction mixtures" in Parce et al. (and this is clearly a relative term as broadly as it is claimed), it is clear that this operation control reagent is also a reaction mixture as it performs a desired function of providing environmental control for fluid operations (paragraph 0002)

and prevents dissolved organic material from absorbing to a microchannel surface  
(paragraph 0019)

New grounds of rejection appear below, necessitated by amendment.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parce et al ('545) in view of Voss et al. (US 6,706,162)

Regarding claims 1-9 and 12, Parce et al. ('545) teach using a "operation control reagent" in the reaction of biochemical analyses, such as protein sizing separation, nucleic acid separation, drug screening, high throughput genetic analysis and the like fluid operation performed in a micro fluidic system (page 1, [0002]) to provide

environmental control for the fluid operation. The operation control reagent, i.e., reaction mixture, comprising a surface-adsorbing polymer (page 3, [0021]) in a buffered solution (page 4, [0031]) to prevent adsorption of dissolved organic material, such as polymer, to the microchannel surface (page 2, [0019]), which is non-covalent bonding. Parce et al. ('545) further teach that surface-adsorbing polymer (page 1, [0013]) is typically not involved directly in the reaction of interest, i.e. does not inhibit the fluid operation.

Parce et al. ('545) is silent concerning of the particular molecular weight of the surface-adsorbing polymer. Voss et al. ('162) teach a reaction mixture for separating analysis of polymerase chain reaction (PCR) product (col. 1, line 28-30), wherein the reaction mixture consisting a surface interaction polymer (col. 2, line 26-27) to modify the capillary glass surface charge (col. 1, line 58-65). Voss et al. ('162) further teach that the suitable surface interaction polymer including poly (N, N –dimethylacrylamide) and copolymer of polyacrylamide and poly (N, N-disubstituted acrylamide) with average molecular weight of 200,00 Dalton to 5,000,000 Dalton (col. 8, line 1-40). Since Parce et al. ('545) teach utilizing a surface adsorbing polymer, such as polyacrylamide to reduce adsorption of protein to the substrate surface and Voss et al. ('162) teach utilizing the surface interaction polymer, such as polyacrylamide to minimize the surface charge of the glass surface in a fluid operation within a micro channel apparatus. Therefore it would have been obvious to one of ordinary skill in the art to use the teach of Voss et al. ('162) in the teach of Parce et al. ('545) to minimize the surface charge effect as well as to prevent the adsorption of protein on the glass surface.

As for claim 10 and 11, Parce et al ('545) teach the surface adsorbing polymer include linear cellulose polymers, agarose polymers, acrylic polymers, polyacrylamide polymers and polydimethylacrylamide polymers and copolymers of these.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Stouffer whose telephone number is (571) 272-2668. The examiner can normally be reached on Monday - Thursday 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kelly Stouffer  
Examiner  
Art Unit 1762

kms



BRET CHEN  
PRIMARY EXAMINER